

## REMARKS

Applicant respectfully traverses and requests reconsideration.

Claims 1-8, 10-20, 25 and 27 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,614,940 (Cobbley et al.). Cobbley is directed to a method and apparatus for providing broadcast information with indexing wherein a broadcast source sends broadcast information that includes both video images and/or audio data that is presented to the end users and also includes various control, indexing and text information. As such, in one embodiment, the broadcast information from the broadcast source contains the information and corresponding indexing information as well. (See column 3, lines 43-46 and column 3, line 60 to column 4, line 22). The index information is inserted into the broadcast stream and transmitted by the broadcast source concurrently with the video and/or audio broadcast. Applicant claims a different system, methods and apparatus as the index information that is sent is separate from the media file that is generated (see e.g. FIG. 3, FIG. 4). The index information comes from, for example, an external source such as an index beacon. Cobbley teaches a different approach. The indexing information in Cobbley is extracted from the broadcast stream and may be generated by scanning close caption information in the broadcast stream or by scanning either received audio data or by scanning the received video data utilizing an image recognition process. (See column 4, lines 37-44). The index information from the broadcast information is obtained by the index data capture device which discards the remaining broadcast information. (See column 4, lines 47-50).

Cobbley in an alternative embodiment also teaches that the indexing information is generated at the receiving end and in such an embodiment the capture device 112 uses the time that a segment is broadcast to include a subject matter index based on the time of day. This is used, for example, where a repeating news transmission transmits the same type of news, for example, for five minutes every half hour starting at ten minutes past the half hour. In such an

embodiment it appears that no index information is transmitted. Again, this is also different from the claims.

As a preliminary matter, Applicant claims, for example in claim 1, capturing a subject in a media file with a media capture device. The office action cites the index data capture device 112 of Cobbley as performing this operation. However, the index data capture device in Cobbley does not capture a subject in a media file but instead extracts indexing information from the broadcast information that is received. There is no capturing of a subject in a media file as claimed. For example, Applicant gives many examples of capturing a subject which may include, for example, using a digital camera, camcorder, audio recorder or any other suitable capturing device to create a media file from a subject. This may also include capturing content in a media file as noted in the application. The device 112 in Cobbley does not perform the claimed operation. As such, the claim is in condition for allowance.

Moreover, the index information in Cobbley is already included in the broadcast information along with the video and/or audio information or is generated by the receiving devices. In contrast, Applicant claims automatically receiving index information separate from the media file from an external source. The index information in Cobbley is already within the broadcast information or generated by the receiver. As such, Cobbley does not, among other things, automatically receive index information that is separate from the media file, from an external source. Accordingly, the claim is in condition for allowance.

Lastly, column 3, line 60 to column 4, line 7 is cited as allegedly teaching the claim limitation of associating the index information with the media file. However, as claimed, this step occurs after the index information has been received. The cited portion refers to associating

index information before it is sent. As such, this cited portion also does not teach the claimed subject matter. Accordingly, the claim is in condition for one or more of the above reasons.

The dependent claims add additional novel and non-obvious subject matter. For example, claim 5 requires that the index information, prior to being associated with the media file, is transmitted from the media indexing beacon. The office action cites column 3, lines 23-40 of Cobbley. However, this cited portion refers to the broadcast source which broadcasts the broadcast information and that broadcast information includes both the content itself (e.g. audio and/or video) along with the corresponding index information. As such, the index information is not transmitted by a media indexing beacon prior to be associated with the index file but to the contrary, is already associated with the media file prior to being transmitted as taught in Cobbley. Accordingly, this cited portion of Cobbley does not anticipate the claimed subject matter.

As to claim 6, Applicant respectfully reasserts the relevant remarks made above with respect to claim 5 and also note that the cited portion, namely column 10, lines 21-59 does not refer to receiving index information in response to an index information request, but to the contrary, refer to the client system 140 requesting content from the cache index 128 and not from a media indexing beacon. Accordingly, this claim is also in condition for allowance.

Regarding claims 8 and 20, the office action cites the rejection of claim 1. However, claim 8 and claim 1 have different limitations and as such, claim 8 is allowable as the rejection does not provide a basis for rejection of claim limitations in claim 8. For example, claim 8 requires storing index information relating to an object and receiving an index information request that is generated by a media capture device and transmitting the index information relating to the subject to the media capture device in response to receiving the index information

request. None of these limitations are in claim 1. Moreover, the cited portion, namely column 6, lines 7-26, refer to the index data cache device 112 that receives the broadcast information from the broadcast receiver. There is no index information request being received that is generated by a media capture device, among other missing limitations. Accordingly, the claim is in condition for allowance. In addition, the cited portion also does not appear to teach, among other things, transmitting the index information separately to the media capture device in response to receiving the index information request.

The other dependent claims add additional novel and non-obvious subject matter.

As per claims 13 and 19, the office action cites the rejection of claim 1. Applicants respectfully reassert the relevant remarks made above with respect to claim 1 and as such, these claims are also in condition for allowance.

Regarding claim 14, the office action cites “(page 5, 0050, Cobbley)”. However, there is no page 5 or paragraph 50 in the Cobbley patent. Accordingly, the claim is in condition for allowance as there is no *prima facia* rejection of this claim.

The dependent claims add additional novel and non-obvious subject matter.

As to claim 25, this claim requires, among other things, that the media capture device captures the subject in a media file and separately receives the index information from the beacon signal wherein the beacon signal includes index information relating to the subject. No such operation is described in the cited reference. Accordingly, this claim is also in condition for allowance.

As to claim 27, Applicants respectfully reassert the relevant remarks made above with respect to claim 1 and as such, this claim is also in condition for allowance.

New claim 32 is also believed to be allowable as the cited reference does not show that the apparatus includes a digital camera and a wireless receiver in the camera that receives that index information. Accordingly, this claim is also believed to be in condition for allowance.

Claims 21-24 and 28 and 29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Cobbley publication in view of Katseff et al. Applicant respectfully notes that the publication number given in the office action is not to Cobbley, but instead is to Platt et al. As such, if the rejections are maintained, Applicant respectfully requests another non-final action as the claims have not been properly rejected.

In any event, Applicant also respectfully submits that the claims are allowable at least for the reasons given above and that these claims add additional novel and non-obvious subject matter.

Applicant respectfully submits that the claims are in condition for allowance and respectfully requests that a timely Notice of Allowance be issued in this case. The Examiner is invited to contact the below listed attorney if the Examiner believes that a telephone conference will advance the prosecution of this application.

Respectfully submitted,

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